

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

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|------------------------------------------|---|------------------------|
| Ben Howard Smith, |) | C.A. #2:08-0201-PMD-BM |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | <u>ORDER</u> |
| |) | |
| Joseph K. Coffy; Bob Atkinson; Linda G. |) | |
| Walters; L. Keith Josey, Jr.; and Ronnie |) | |
| Stewart, |) | |
| |) | |
| Defendants. |) | |
| |) | |

This matter is before the court upon the magistrate judge's recommendation that defendants Bob Atkinson and Linda Walters' motion to dismiss be granted in part and denied in part. The record includes the report and recommendation of the United States Magistrate Judge made in accordance with this Court's Order of Reference and 28 U.S.C. § 636(b)(1)(B). Because petitioner is pro se, this matter was referred to the magistrate judge.¹

This Court is charged with conducting a de novo review of any portion of the magistrate judge's report to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the recommendations contained in that report. 28 U.S.C. § 636(b)(1). No objections have been filed to the magistrate judge's report.

A review of the record indicates that the magistrate judge's report accurately summarizes this case and the applicable law. For the reasons articulated by the magistrate judge,

¹Pursuant to the provisions of Title 28 United States Code, § 636(b)(1)(B), and Local Rule 73.02(B)(2)(g), D.S.C., the magistrate judge is authorized to review all pretrial matters and submit findings and recommendations to this Court.

IT IS HEREWITH ORDERED that defendants Bob Atkinson and Linda G. Walters' motion to dismiss be **GRANTED** as to plaintiff's § 1983 claims (First and Fourth Causes of Action), and they are herewith dismissed as party defendants from these two causes of action.

IT IS FURTHER ORDERED that as to plaintiff's § 1985 claim (Second Cause of Action), defendants Walters and Atkinson **are dismissed** from plaintiff's claims of a conspiracy involving his state court case and for having hired "agents" to break into his house and otherwise harass him. As for the remainder of the plaintiff's § 1985 claims, as well as with regard to plaintiff's fraud claim (Third Cause of Action), defendants' motion to dismiss is **DENIED**.

FURTHER ORDERED, that the magistrate judge's report and recommendation is adopted as the order of this Court, and this matter is referred back to Magistrate Judge Marchant for further handling consistent with this order.

AND IT IS SO ORDERED.


PATRICK MICHAEL DUFFY
United States District Judge

November 12, 2009
Charleston, South Carolina